

Amendment No. 1 to SB1155

Bell
Signature of Sponsor

AMEND Senate Bill No. 1155

House Bill No. 290*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 71-5-143, is amended by deleting the section in its entirety and substituting instead the following:

(a) On July 1, 2017, there is reestablished in the office of the comptroller of the treasury a TennCare advisory commission. The advisory commission is separate and distinct from the bureau of TennCare but shall be allowed access to all data concerning operations, management, and program functions of the TennCare program, including information relevant to the TennCare program held or maintained by other state agencies. In accordance with 45 CFR 160.101 et seq., members of the advisory commission will provide nonpaid consulting services to the bureau of TennCare and may have access to protected health information to the extent necessary to perform their advisory function.

(b)

(1) The advisory commission shall be composed in accordance with this subsection (b). Members shall be appointed by the speaker of the house of representatives and the speaker of the senate. The advisory commission is composed of twenty-one (21) members who should reflect the broad impact that the TennCare program has on the state of Tennessee.

(2) The membership of the advisory commission includes:

Senate Government Operations Committee 1

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(A) One (1) member of the health and welfare committee of the senate appointed by the speaker of the senate, or a designee of that member;

(B) One (1) member of the commerce and labor committee of the senate appointed by the speaker of the senate or a designee of that member;

(C) One (1) member of the government operations committee of the senate appointed by the speaker of the senate, or a designee of that member;

(D) One (1) member of the finance, ways and means committee of the senate appointed by the speaker of the senate, or a designee of that member;

(E) One (1) member of the health committee of the house of representatives appointed by the speaker of the house of representatives, or a designee of that member;

(F) One (1) member of the insurance and banking committee of the house of representatives appointed by the speaker of the house of representatives, or a designee of that member;

(G) One (1) member of the government operations committee of the house of representatives appointed by the speaker of the house of representatives, or a designee of that member;

(H) One (1) member of the finance, ways and means committee of the house of representatives appointed by the speaker of the house of representatives, or a designee of that member;

(I) One (1) member representing hospitals appointed by the speaker of the senate;

(J) One (1) member representing hospitals appointed by the speaker of the house of representatives;

(K) One (1) member representing physicians appointed by the speaker of the senate;

(L) One (1) member representing physicians appointed by the speaker of the house of representatives;

(M) One (1) member representing nursing homes appointed by the speaker of the senate;

(N) One (1) member representing nursing homes appointed by the speaker of the house of representatives;

(O) One (1) member representing pharmacists appointed by the speaker of the senate;

(P) One (1) member representing pharmacists appointed by the speaker of the house of representatives;

(Q) One (1) member representing providers of home health care appointed by the speaker of the house of representatives;

(R) One (1) member representing providers of services to the intellectually and developmentally disabled appointed by the speaker of the senate;

(S) One (1) member representing providers of behavioral health services appointed by the speaker of the house of representatives;

(T) One (1) member representing the advocacy community to be appointed by the speaker of the senate; and

(U) One (1) designee of the commissioner of finance and administration to serve as a nonvoting ex officio member.

(3) In making the appointments, the speakers shall strive to ensure that the advisory commission's membership is representative of the state's geographic and demographic composition with appropriate attention to the representation of women and minorities. Except for initial appointments, nonlegislative members shall be appointed to three-year terms. The members of the advisory commission shall elect a chair and vice chair of the commission from the membership of the commission who shall serve one-year terms as chair and vice chair.

(4) In making the initial appointments of nonlegislative members, the following terms shall apply:

(A) The speaker of the senate shall appoint to a term ending June 30, 2018, the members appointed under subdivisions (b)(2)(I) and (O);

(B) The speaker of the house of representatives shall appoint to a term ending June 30, 2018, the members appointed under subdivisions (b)(2)(J) and (P);

(C) The speaker of the senate shall appoint to a term ending June 30, 2019, the members appointed under subdivisions (b)(2)(K) and (R);

(D) The speaker of the house of representatives shall appoint to a term ending June 30, 2019, the members appointed under subdivisions (b)(2)(L) and (Q);

(E) The speaker of the senate shall appoint to a term ending June 30, 2020, the members appointed under subdivisions (b)(2)(M) and (T); and

(F) The speaker of the house of representatives shall appoint to a term ending June 30, 2020, the members appointed under subdivisions (2)(b)(N) and (S).

(5) In the case of a vacancy, a member shall be appointed to fill out the unexpired term of that commission appointment by the authority who appointed that member.

(6) If a nonlegislative member of the commission is absent for more than three (3) meetings of the commission in a calendar year without good cause, then a vacancy is created and shall be filled pursuant to subdivision (b)(5).

(c)

(1) The purpose of the commission is to review annually the healthcare operations, including, but not limited to, cost-management analysis, benefits, enrollment, eligibility, costs, and performance of the TennCare program and to make recommendations to the appropriate state agencies and the general assembly regarding the cost-containment strategies and cost-effective program improvements. Review of the TennCare program shall also include the holding of public hearings on any proposed amendment to any federal waiver governing the provision of medical assistance under this title, any amendment or change to the Title XIX state plan, and review of behavioral health services and the Long Term Care Community Choices Act, compiled in title 71, chapter 5, part 14.

(2) Recommendations by the commission may include an assessment of the effectiveness of the existing TennCare program, specific steps that could be taken to reduce program costs, and an evaluation of whether the program is

optimizing its use of resources to best meet the needs of the TennCare enrollees. Proposed modifications submitted by the commission that may result in increased program expenditures should be accompanied by recommendations to achieve commensurate savings in other program areas in order to achieve overall management of program costs.

(3) The commission is authorized to appoint subcommittees to study specific topics.

(4) The commission is authorized to employ staff.

(5) The bureau of TennCare shall provide the commission copies of any reports or substantive correspondence made by a consultant or federal official to the bureau on any aspect of the TennCare program, including quality issues.

(6) No application for an amendment to any federal waiver governing the provision of medical assistance under this title or the Title XIX state plan may be submitted to any agency of the federal government unless the commission has been afforded at least thirty (30) days in which to hold a public hearing on the proposed waiver before submission of the waiver application. Any waiver application failing to receive the opportunity to hold such public hearing before submission to an agency of the federal government shall be void and of no effect.

(7) The commission shall meet once every other month and at the call of the chair, as needed, to perform the following duties:

(A) Hear testimony from the bureau of TennCare on changes in federal law, regulation, or guidance that could affect the TennCare program;

(B) Receive a briefing from the division of health care finance and administration on any new strategies, programs, or policies under

consideration to control costs, expand coverage, or improve the quality of health care of Tennesseans;

(C) Receive a briefing on new strategies, programs, or policies that are being adopted in other states from commission staff; and

(D) Hear testimony or take action on any issues raised by the chair of the commission or recommended during a previous commission meeting.

(8) The division of health care finance and administration shall inform the commission on any actions or policy changes that have been made necessary by a major change in federal law or regulation at least thirty (30) days prior to implementation.

(9) The division of health care finance and administration and other state agencies shall provide information in a timely manner to the commission at the request of the chair.

(10) The commission shall issue the following reports to the general assembly on an annual basis:

(A) Five-year projections of the financial and operational impact of the state aging population on TennCare;

(B) Status of implementation of any alternative payment system utilizing bundled payments or episodes of care;

(C) Thorough analysis of the drivers of healthcare inflation of the TennCare program;

(D) Compilation of all recommendations made by the commission, agency response, and commission response; and

(E) Any other issues requested by the general assembly through joint resolution.

(d) The commission is authorized to promulgate rules relative to confidentiality to protect sensitive data and protected health information under federal or state law.

(e) Items or matters discussed by the commission may from time to time present real or apparent conflicts for members of the commission. Due to the importance of the commission's work and the advisory nature of its recommendations, in the event that a matter being considered by the commission presents a real or apparent conflict of interest, the affected member of the commission shall disclose the conflict to the chair but shall be allowed to discuss and take official action on the particular matter. The professional backgrounds of each member of the advisory commission as well as any conflicts disclosed by a member to the chair during a given year shall be reported in the commission's recommendations as set forth in subsection (c).

(f) Legislative members shall be compensated for expenses in accordance with § 3-1-106.

(g)

(1) Any person registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6 who is subsequently appointed or otherwise named as a member of the commission shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities involve the TennCare program, prior to serving as a member of the commission. This subdivision (g)(1) shall apply to all persons appointed or otherwise named to the commission.

(2) No person who is a member of the commission shall be permitted to register or otherwise serve as a lobbyist pursuant to title 3, chapter 6 for any entity whose business endeavors or professional activities are regulated by the commission during such person's period of service as a member of the

commission. This subdivision (g)(2) shall apply to all persons appointed or otherwise named to the commission.

(3) No person who serves as a member of the commission shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated by the commission for one (1) year following the date such person's service on the commission ends. This subdivision (g)(3) shall apply to all persons serving on the commission.

(4) A person who violates this subsection (g) shall be subject to the penalties prescribed in title 3, chapter 6.

(h) In performing its responsibilities, the commission's role shall be strictly advisory, but it may:

(1) Make recommendations to the governor, the general assembly, the standing health, government operations, and finance, ways and means committees of each chamber of the general assembly, the deputy commissioner of the division of health care finance and administration of the department of finance and administration, or any other state agency;

(2) Make recommendations to the administrator of the bureau of TennCare and the commissioner of health regarding the method and form of statistical data collections;

(3) Monitor the performance of the division of health care finance and administration, the department of health, the department of intellectual and developmental disabilities, the department of mental health and substance abuse services, the department of commerce and insurance, and the commission on aging and disability, insofar as those operations relate to the cost, quality, or accessibility, of health care; and

(4) Develop recommended alternatives to provider rate reductions in the event of reduced revenue.

(i) For administrative purposes, the council shall be attached to the office of the comptroller of the treasury for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The comptroller of the treasury shall have administrative and supervisory control over the staff assigned to assist the commission. Employees of the council shall not have the status of preferred service employees pursuant to title 8. The autonomy of the commission and its authority are not affected by this subsection (i).

(j) The TennCare advisory commission is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with title 4, chapter 5.

(k) Beginning in fiscal year 2017-2018, and in each subsequent fiscal year, the funds that are available and allocated for vacant staff positions of the bureau of TennCare shall be transferred and credited to the office of the comptroller of the treasury to be used as necessary to fund the costs of staffing and operating the commission; except that no funds shall be transferred from any vacant staff positions responsible for carrying out duties required by federal law.

SECTION 2. Tennessee Code Annotated, Section 4-29-240(a), is amended by adding the following as a new subdivision to be appropriately designated:

() TennCare advisory commission, created by § 71-5-143;

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.